

HON'BLE SRI JUSTICE GODA RAGHURAM

W.P.NO. 26420 OF 2005

DATED: 22.6.2006

Between:

Jagdish Cancer & Research Centre(P)Ltd.

... Petitioner

and

A.P. Industrial Development Corpn. Ltd.
Parishramabhavan and others

... Respondents

THE HON'BLE SRI JUSTICE GODA RAGHURAM

W.P. NO. 26420 OF 2005

ORAL ORDER :

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Heard Sri M.L. Ali, learned counsel for the petitioner; Sri S. Sriram Reddy, learned counsel for the 1st respondent and Sri M. Papa Reddy, learned counsel for the 2nd respondent.

The writ petition is filed alleging high-handed action by the 1st respondent seeking to forcibly evict the petitioner from the premises bearing No. 3-6-20, Tirumala Apartments, Skyline Theatre Road, Himayathnagar, Hyderabad.

The 3rd respondent is a landlord of the premises and the petitioner a tenant therein running a Cancer Treatment Center thereat. The 3rd respondent stood guarantee for repayment of a loan obtained by one C. Dayakar Reddy from the 1st respondent – Corporation and offered as collateral security Shop Nos. 14 and 25 of the schedule premises, by creating a of mortgage. Dayakar Reddy defaulted in repaying the loan and the 3rd respondent did not satisfy the loan either. The mortgaged property – the schedule premises, was therefore brought to sale by a public auction by the 1st respondent in proceedings initiated u/Sec. 29 of the AP State Finance Corporation Act (for short 'the Act'). At the auction, the property was knocked down in favour of the 2nd respondent. The 3rd respondent appears to have filed a writ petition No. 15739/05 challenging the auction proceedings and the sale in favour of the

2nd respondent, which was however dismissed on 5.12.2005.

The petitioner alleges that respondents 1 and 2 entered the premises on 6.12.2005, manhandled the staff and tried to evict the petitioner forcibly and also coerced him to execute an undertaking on a Non-judicial stamp paper undertaking to hand over vacant possession of the premises within a week. The petitioner admits to have executed the undertaking but under coercion. The petitioner alleges that he is in no way concerned or related to the dispute but is being unnecessarily put to harassment and hardship.

Alleging that the 1st respondent being a statutory body, governed by statutory rules and regulations, cannot collude with the 2nd respondent and forcibly evict the petitioner, this writ petition is filed. It is also pleaded that the Cancer Unit in the schedule premises cannot be shifted all of a sudden and without the permission of Bhaba Atomic Research Center, Bombay.

Admittedly the petitioner is a tenant of the premises which has been brought to auction and sold in favour of the 2nd respondent by the 1st respondent by a legitimate process of law u/Sec. 29 of the Act. If the respondents 1 and 2 tried to forcibly dispossess the petitioner, the petitioner can resist such dispossession by seeking recourse to injunctive reliefs before the Civil Court of competent jurisdiction. Merely because the 1st respondent is a State within the meaning of Art. 12 of the Constitution, every action of such body need not be scrutinized under Art. 226 of the Constitution. The petitioner has available, adequate, alternative and equally efficacious remedies before the civil court. In the circumstances the court is not inclined to exercise its discretion under Art. 226 of the Constitution.

There are no merits in the writ petition. The writ petition is accordingly dismissed. The petitioner is at liberty to approach the appropriate alternative forum for relief. Nothing stated in this order shall be construed as an expression by this court on the merits of the petitioner's case. No order as to costs.

Date: 22.06.2006
Kvrm

GODA RAGHURAM, J